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George L. Greenfield
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

EXAMINER

GREEN, BRIAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,671

Applicant(s)

BRUSCINI, ROBERT

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no antecedent basis for stating in claim 4 that the award bar may be removed from said holder without substantial additional deflection of said pressure member.

Claim Rejections - 35 USC § 112

Claims 4-6,16 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Stating in claim 4 that the award bar may be removed from the holder without substantial additional deflection of the said pressure member is considered to be new matter since the applicant failed to define this feature in the specification and drawings as originally filed.

Claims 4-6,16, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 4, lines 9-10 are indefinite since it is not clear what constitutes “substantial additional deflection” as defined in these lines, i.e. the metes and bounds of the claim can not be determined.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-8,10-12,14, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Quant (U.S. Patent No. 2,221,926).

Quant shows in figures 1-7 an award bar and holder combination comprising a generally C-shaped holder (10) having sidewalls (12) that overlap the side edges of the award bars (17), a pressure member (14,16) in the holder for bearing against the award bars (17) causing the bars (17) to press against the sidewalls (12), and at least one fastener (A or B,B') mounted on the back of the holder for securing the holder to a support. As broadly defined, Quant shows in figure 6 that the pressure member includes smooth camming surfaces (the member 16 at the upper end of 14 and the member 16 at the bottom end of 14, see fig. 6). In regard to claim 4, since it is not clear what would constitute “substantial additional deflection”, the pressure member of Quant, as best understood, would allow at least one award bar to be removed without “substantial additional deflection” of the pressure member. In regard to claim 5, the holder includes a back panel (11) and the pressure member (14,16) is considered to be an integral part

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of the back panel. Further, Quant discloses on page 2, column 1, lines 17-20, the idea of forming the pressure member directly in the back panel. In regard to claim 6, as broadly defined, the pressure member is welded to the back panel so it is considered to be a segment of the back panel. Further, Quant discloses on page 2, column 1, lines 17-20, the idea of forming the pressure member directly in the back panel. In regard to claim 7, Quant discloses on page 2, column 1, lines 17-20, the idea of forming the pressure member directly in the back panel. In this case, the rectangular opening used to form the upper member (16, see fig. 6) is considered to be a first rectangular opening in the back panel, the opening used to form the lower member (16, see fig. 6) is considered to be a second rectangular opening, and the middle member (16) located between the first and second openings is considered to be the pressure member that bows forwardly at each end of the pressure member, i.e. the attached end portion slopes upwardly/forwardly and the free end portion slopes upwardly/forwardly. In regard to claim 7, Quant shows that the holder is open at both ends and an award bar may slide at least partially into the holder from both ends and could be slid completely in from both sides if the pressure member is held down while the award bar is slid into the holder. In regard to claim 8, Quant shows in figures 1 and 2 at least one fastener (A or B,B'). In regard to claim 10, Quant shows in figures 1 and 3 that the holder is at least twice as long as the award bar. In regard to claim 11, Quant shows in figure 6 that the middle member (16) projects forwardly from the front side of the back panel. In regard to claim 12, Quant discloses on page 2, column 1, lines 17-20, the idea of forming the pressure member directly in the back panel so there would be three pressure members (16) and the pressure members would engage three award bars (17), see figures 1,2, and 6. In regard to claim 14, Quant discloses on page 2, column 1, lines 17-20, the

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idea of forming the pressure member directly in the back panel and therefore the back panel, side panels, and at least one pressure member would be integrally formed from a single strip of metal.

In regard to claim 16, Quant shows in figure 6 that the pressure member includes portions (the upper and lower members 16) which project in a forward direction and the flat portion (portion 14) of the pressure member is parallel to the back panel. In regard to claim 17, Quant shows in figure 6 that the pressure member (16) includes a smooth camming surface (the portion of 16 adjacent the free end of 16 and the portion of 16 adjacent to the connected end of 16) at each end of the pressure member.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quant (U.S. Patent No. 2,221,926) in view of Harn (U.S. Patent No. 3,192,655) or Elkies (U.S. Patent No. 2,495,577).

Quant discloses the applicant's basic inventive concept except for making the attachment member in the form of a pin attached to the holder and a clasp. Harn shows in figures 1-3 the idea of making an attachment member in the form of a pin (13) attached to a holder and a clasp (32). Elkies shows in figures 1-3 the idea of making an attachment member in the form of a pin

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(20) attached to a holder and a clasp (21). In view of the teachings of Harn or Elkies it would have been obvious to one in the art to modify Quant by making the attachment member in the form of a pin and clasp since this would allow the display device to be attached to and removed from an article of clothing in an easier and faster manner.

Claims 4-8,10-12,14,16-18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quant (U.S. Patent No. 2,221,926) in view of Bowder (U.S. Patent No. 2,550,763).

Quant shows in figures 1-7 an award bar and holder combination comprising a generally C-shaped holder (10) having sidewalls (12) that overlap the side edges of the award bars (17), a pressure member (14,16) in the holder for bearing against the award bars (17) causing the bars (17) to press against the sidewalls (12), and at least one fastener (A or B,B') mounted on the back of the holder for securing the holder to a support. In regard to claim 4, Quant does not disclose providing a smooth camming surface at each end of the pressure member. Bowder shows in figures 1-5 a holder that includes a pressure member (28) that includes a smooth camming surface (the opposite ends of the pressure member 28, see figure 2) at the opposite ends of the pressure member. In view of the teachings of Bowder it would have been obvious to one in the art to modify Quant by replacing the multiple pressure members with the single pressure member (28) since this would allow the pressure member and holder combination to be made in an easier and less expensive manner, would allow the indicia members to be biased in a more even and consistent manner, and would allow the indicia members to be removed without tool (20). In regard to claim 4, since it is not clear what would constitute "substantial additional

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deflection”, the pressure member of Quant, as best understood, would allow at least one award bar to be removed without “substantial additional deflection” of the pressure member. Further, the pressure member is not further deflected when the award bar is removed, it simply returns to its natural state. In regard to claim 5, the holder includes a back panel (11) and the pressure member (14,16) is considered to be an integral part of the back panel. Further, Quant discloses on page 2, column 1, lines 17-20, the idea of forming the pressure member directly in the back panel. In regard to claim 6, as broadly defined, the pressure member is welded to the back panel so it is considered to be a segment of the back panel. Further, Quant discloses on page 2, column 1, lines 17-20, the idea of forming the pressure member directly in the back panel. In regard to claim 7, Quant does not disclose providing a pair or rectangular opening in the back panel in order to form the pressure member. Quant discloses on page 2, column 1, lines 17-20, the idea of forming the pressure member directly in the back panel. When the pressure member of Bowder is formed directly in the back panel of Quant there would be a rectangular opening on each side of the pressure member. In view of the teachings of Bowder it would have been obvious to one in the art to modify Quant by replacing the multiple pressure members with the single pressure member (28) since this would allow the pressure member and holder combination to be made in an easier and less expensive manner, would allow the indicia members to be biased in a more even and consistent manner, and would allow the indicia members to be removed without tool (20). In regard to claim 7, Quant shows in figure 7 lips (13,13) formed on the holder. In regard to claim 7, Quant shows that the holder is open at both ends and an award bar may slide at least partially into the holder from both ends and could be slid completely in from both sides if the pressure member is held down while the award bar is slid into the holder. In

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regard to claim 8, the attaching member (A or B,B') is attached to the back side of the back panel. In regard to claim 10, the holder is at least twice as long as the award bars (17), i.e. the holder holds three of the award bars (17). In regard to claim 11, the pressure member includes portions (16) which project forwardly of the front side of the back panel. In regard to claim 12, it is considered within one skilled in the art to provide additional pressure members since this would allow additional letters to be added to the holder, i.e. five, ten, or more letters to be held within the holder in a more consistent manner. In regard to claim 14, Quant discloses on page 2, lines 17-21 that the pressure members elements (16) could be formed directly in the back panel (11). In regard to claim 17, Bowder shows that the pressure member comprises a smooth camming surface at each end, see figure 2. In regard to claim 18, Bowder shows that the pressure member bows out and includes a middle section which is substantially parallel to the back panel, see figure 2. In regard to claim 21, Bowder shows in figure 2 that each end of the pressure member extends out in a direction non-parallel with each other.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quant (U.S. Patent No. 2,221,926) in view of Bowder as applied to claim 8 above and further in view of Harn (U.S. Patent No. 3,192,655) or Elkies (U.S. Patent No. 2,495,577).

Quant in view of Bowder disclose the applicant's basic inventive concept except for making the attachment member in the form of a pin attached to the holder and a clasp. Harn shows in figures 1-3 the idea of making an attachment member in the form of a pin (13) attached to a holder and a clasp (32). Elkies shows in figures 1-3 the idea of making an attachment member in the form of a pin (20) attached to a holder and a clasp (21). In view of the teachings

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of Harn or Elkies it would have been obvious to one in the art to modify Quant by making the attachment member in the form of a pin and clasp since this would allow the display device to be attached to and removed from an article of clothing in an easier and faster manner.

Claims 1-3,15,19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quant (U.S. Patent No. 2,221,926) in view of Bowder and Harn (U.S. Patent No. 3,192,655) or Elkies (U.S. Patent No. 2,495,577).

Quant shows in figures 1-7 an award bar and holder combination comprising a generally C-shaped holder (10) having sidewalls (12) that overlap the side edges of the award bars (17), a pressure member (14,16) in the holder for bearing against the award bars (17) causing the bars (17) to press against the sidewalls (12), and at least one fastener (A or B,B') mounted on the back of the holder for securing the holder to a support. In regard to claim 1, Quant does not disclose making the pressure member bow out of the panel in a forward direction at each end of the pressure member and extending to a middle section which is substantially parallel to the back panel and using a pin and clasp for attaching the holder to a support. Bowder shows in figures 1-5 a holder that includes a pressure member (28) that includes a pressure member which bows out of the panel in a forward direction at each end of the pressure member and extending to a middle section which is substantially parallel to the back panel, see figure 1. In view of the teachings of Bowder it would have been obvious to one in the art to modify Quant by replacing the multiple pressure members with the single pressure member (28) since this would allow the pressure member and holder combination to be made in an easier and less expensive manner, would allow the indicia members to be biased in a more even and consistent manner, and would allow the

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indicia members to be removed without tool (20). Quant discloses on page 2, column 1, lines 17-20, the idea of forming the pressure member directly in the back panel. In regard to claim 1, it appears from the figures of Bowder that the middle section of the pressure member would be substantially parallel to the back panel before an award bar is disposed in the slide seat.

However, if this is not the case then it is considered to have been an obvious matter of design choice to make the middle section parallel to the back before an award bar is placed within the slide seat since the applicant fails to define any advantage to making the middle section parallel and the shape of the middle section of Bowder would work equally as well. Quant discloses the applicant's basic inventive concept except for making the attachment member in the form of a pin attached to the holder and a clasp. Harn shows in figures 1-3 the idea of making an attachment member in the form of a pin (13) attached to a holder and a clasp (32). Elkies shows in figures 1-3 the idea of making an attachment member in the form of a pin (20) attached to a holder and a clasp (21). In view of the teachings of Harn or Elkies it would have been obvious to one in the art to modify Quant by making the attachment member in the form of a pin and clasp since this would allow the display device to be attached to and removed from an article of clothing in an easier and faster manner. In regard to claim 15, Bowder shows that the pressure member comprises a smooth camming surface at each end, see figure 2. In regard to claim 19, Quant in view of Bowder does not disclose making the middle section parallel to the back section before an award bar is placed within the slide seat. It would have been an obvious matter of design choice to make the middle section parallel to the back since the applicant fails to define any advantage to making the middle section parallel to the back section before an award bar is attached and the shape of the middle section before an award bar is attached as taught by Quant

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in view of Bowder would work equally well. In regard to claim 20, Bowder shows in figure 2 that each end of the pressure member extends out in a direction non-parallel with each other.

Response to Arguments

Applicant's arguments filed Oct. 26, 2005 have been fully considered but they are not persuasive.

The applicant argues that Quant does not include a holder that is constructed such that the award bar may be removed from the holder without substantial additional deflection of the pressure member as recited in claim 4. The metes and bounds of this added phrase in claim 4 are unclear. It is not clear how much the pressure member can be deflected and still fall within the parameters of "without substantial additional deflection". Further, as the award bar is removed from the holder of Quant the pressure member returns to it's natural position and is not deflected an additional amount, the pressure member simply returns to it's natural state. As best understood, the pressure member of Quant is not deflected a substantial amount when the award bar is removed.

The applicant argues that the holder of Quant is not open at both ends since it includes an upset flange at one end which prevents characters from being inserted or removed from this end. The examiner disagrees since Quant shows that the holder is open at both ends and an award bar may slide at least partially into the holder from both ends and could be slid completely in from both sides if the pressure member is held down while the award bar is slid into the holder.

The applicant argues that Quant in view of Bowder does not include a holder that is constructed such that the award bar may be removed from the holder without substantial

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additional deflection of the pressure member as recited in claim 4. The metes and bounds of this added phrase in claim 4 are unclear. It is not clear how much the pressure member can be deflected and still fall within the parameters of “without substantial additional deflection”. Further, as the award bar is removed from the holder of Quant in view of Bowder the pressure member returns to its natural position and is not deflected an additional amount, the pressure member simply returns to its natural state. As best understood, the pressure member of Quant in view of Bowder is not deflected a substantial amount when the award bar is removed.

The applicant argues that Quant in view of Bowder do not teach the use of a holder that is open at both ends since the holder of Quant includes an upset flange at one end which prevents characters from being inserted or removed from this end. The examiner disagrees since Quant shows that the holder is open at both ends and when the holder of Quant is modified in view of Bowder, an award bar may slide into the holder from both ends.

The applicant argues that it would not have been an obvious matter of design choice to make the middle portion of the pressure member parallel to the back member since making the pressure member parallel allows the award bar to slide more easily on the pressure member without causing damage. The examiner disagrees since it appears that the middle portion of the pressure member of Bowder would be generally parallel to the back panel when an award bar is not within the seat. Further, a middle portion that is slightly out of parallel with the back panel would work equally well.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
Jan. 9, 2006